

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2047 of 2000

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

A TO Z GRUH VASTU BHANDAR
Versus
DIRECTOR OF INCOME TAX (INV.)

Appearance:
MR KA PUJ for Petitioners
MR MANISH R BHATT for Respondent No. 1
RULE SERVED for Respondent No. 4

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE M.S.SHAH

Date of decision: 21/11/2000

ORAL JUDGEMENT

(Per : CHIEF JUSTICE MR DM DHARMADHIKARI)

The business premises of the petitioner No.1 were searched and Books of accounts have been seized by the Income Tax Department and are in their custody. The petitioner No.1 has been directed to submit a return of its income. The petitioner - assessee has approached this Court for a direction that the Books of Accounts seized in January, 1999 be returned to it.

2. On behalf of the department, the prayer is opposed and the Learned Counsel for the department states that the petitioner No.1 can be allowed to inspect the Books of Accounts, but they cannot be returned to it, as there is likelihood of tampering with the entries of the Books of Accounts. The apprehension expressed on behalf of the department is without any foundation, as the department can retain copies of the relevant entries of the Books of Accounts.

3. After hearing the opposing Counsel for the parties, in our opinion, the interest of justice will be best served by directing the petitioner No.1-assessee to submit its return within a period of fifteen days from the date of this order and thereupon the department shall return the Books of Accounts to the petitioner No.1-assessee.

4. On the return of the Books of Accounts, if the petitioner no.1-assessee finds it necessary, it may submit a revised return, to which the department shall raise no objection.

5. It is also directed that the Books of Accounts will be returned to the petitioner No.1 subject to the condition that the petitioner No.1-assessee shall produce the original Books of Accounts for perusal of the department, as and when required. It would be open to the department to retain copies of the Books of Accounts and it would be open to the department to rely on those copies. The copies so prepared by the department shall be initialled by the parties to ensure their authenticity.

6. On other points raised in this petition, we express no opinion and leave it to the petitioner No.1-assessee to raise them in the assessment-proceedings at the appropriate stage.

7. With the aforesaid directions, this Special Civil is disposed of. Rule made absolute with no order as to costs.

(D.M.Dharmadhikari, CJ)

(M.S.Shah, J)

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